

IN THE MATTER between **BKGK**, Applicant, and **N(N)F**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5
(the "Act");

AND IN THE MATTER of a hearing before **Adelle Guigon**, Rental Officer,

BETWEEN:

BKGK

Applicant/Landlord

-and-

N(N)F

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: October 5, 2016

Place of the Hearing: Behchoko, Northwest Territories

Appearances at Hearing: LH, representing the applicant
EN, representing the applicant
TM, representing the applicant
NF, respondent
MWB, Tlicho interpreter for the respondent

Date of Decision: October 5, 2016

REASONS FOR DECISION

An application to a rental officer made by BKGK as the applicant/landlord against N(N)F as the respondent/tenant was filed by the Rental Office April 25, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Behchoko, Northwest Territories. The applicant personally served a copy of the filed application on the respondent May 2, 2016, and personally served additional submissions to the application on the respondent June 29, 2016.

The applicant alleged the respondent had repeatedly failed to pay rent, had caused damages to the rental premises, and had accumulated rental arrears. An order was sought for payment of the rental arrears, payment of the costs for repairs, and conditional termination of the tenancy agreement and eviction.

A hearing was scheduled for October 5, 2016, in Behchoko, Northwest Territories. Ms. LH, Ms. EN, and Ms. TM appeared representing the applicant. Mr. NF appeared as respondent. Ms. MWB was in attendance to interpret in the Tlicho language for the respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a tenancy agreement between them for subsidized public housing commencing February 2, 1976. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Tenant damages

The application referenced a claim for tenant damages. A statement and an invoice were submitted for costs of \$159.60 to replace an interior door in September 2006. No other evidence was presented from which to establish the nature of the damage, whether or not the damage was present at commencement of the tenancy, and whether the damage occurred as a result of the tenant's wilful or negligent conduct or was simply normal wear and tear. There being no substantive evidence for the claim, it was denied.

Rental arrears

The applicant submitted lease ledgers, spreadsheets, lease balance statements, tenant ledger cards, and statements of account in support of their claim for rental arrears. These documents represent the landlord's accounting of monthly assessed rents and payments made against the respondent's rent account. All rents have been subsidized, but rent has only been applied up to and including for June 2016. Prior to July 1, 2016, the landlord required tenants to report their household income on a monthly basis from which the subsequent month's rent would be assessed a subsidy. As of July 1, 2016, the landlord amended their policy to require tenants to report their household income annually based on the previous year's income tax return from which the subsidized rent would be calculated at the same amount per month for a one-year period (that being July to June). In this case, the respondent has not yet filed his 2015 tax return; in consideration of his being an elder and in anticipation of the respondent filing his 2015 tax return, the applicant decided not to yet charge rent for July 2016 onward pending receipt of the respondent's income information. The rental arrears claimed of \$30,550.52 represents monthly assessed rent up to and including for June 2016 and payments received against the respondent's rent account as of October 4, 2016. The respondent did not dispute that he had accumulated rental arrears. He further stated he was willing to pay the rental arrears, but was concerned about how he was going to pay them.

The respondent is an elder who only speaks the Tlicho language. He is still earning an income by working for the community, but anticipates stopping work soon. He stated that no one ever came to him to explain any of the notices and statements he received. He confirmed that he has not approached the landlord to ask for help understanding the notices either. The applicant's representatives testified that the landlord's manager, who also speaks Tlicho, has met with the respondent a few times and explained the situation.

The respondent also argued that the rental premises is in a poor state of repair and has been so for a very long time. He said he has told the landlord about the problems over the years and they have never done anything to effect repairs. He argued that if they won't come to him why should he go to them. He admitted to withholding the rent because of the condition of the rental premises. It was explained to the respondent at hearing that if there are maintenance issues at the rental premises that the landlord has failed to address then the respondent can file an application to a rental officer under section 30 of the Act and we can discuss those issues at another hearing. It was also explained that the tenant is obligated to pay the rent in full when due, regardless of whether there are any other issues occurring.

The respondent has been in a residential tenancy agreement with the applicant for a very long time. Many different written tenancy agreements have been signed by the respondent over the years. The landlord employs representatives in the community who speak the Tlicho language. I have a difficult time believing that the respondent has never understood his obligation to pay his rent. If the respondent did not understand the documents he was being served with then it would be incumbent on him to approach the landlord's local representatives to explain the documents or to otherwise seek help translating the documents from local resources.

I am satisfied the respondent has repeatedly failed to pay the full amount of rent when due. I find the respondent has accumulated rental arrears in the amount of \$30,550.52.

Termination of the tenancy agreement and eviction

In consideration of the respondent's repeated failure to pay his rent and the substantial amount of rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. However, under the circumstances it was agreed that the termination and eviction should be conditional on the payment of the rental arrears in full and the rents for November, December, and January being paid on time.

Orders

An order will issue: requiring the respondent to pay rental arrears in the amount of \$30,550.52; to pay his future rent on time; terminating the tenancy agreement January 31, 2017, unless the rental arrears are paid in full and the rents for November, December, and January are paid on time; and evicting the respondent from the rental premises February 1, 2017, if the termination of the tenancy becomes effective.

Adelle Guigon
Rental Officer